

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LEONID TREYGER,

Plaintiff,

- against -

ORDER TO SHOW CAUSE
21-CV-5189 (PKC) (TAM)

LIBERTY 99 CENTS PARADISE INC.,

Defendant.

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PAMELA K. CHEN, United States District Judge:

On May 19, 2022, the Court ordered default judgment against Liberty 99 Cents Paradise, Inc. (“Liberty”), which included the following injunctive relief: “Defendants shall prepare architectural and construction plans remedying the ADA violations described in the Complaint, and submit those plans to Plaintiff’s counsel for approval within sixty (60) days of this Order.” (05/19/2022 Docket Order.) The Court’s Order was served on Liberty. (Dkt. 23.)

As of August 11, 2022—nearly ninety (90) days after this Court’s Order—Defendant had not provided Plaintiff’s counsel with architectural and construction plans for remedying the ADA violations described in the Complaint. (Dkt. 32 at ECF 16.¹) Plaintiff seeks an order to show cause why Liberty should not be held in contempt for failure to comply with the Court’s Order. (Dkt. 32.)

“To demonstrate contempt, a movant must establish that (1) the order the contemnor failed to comply with is clear and unambiguous, (2) the proof of noncompliance is clear and convincing, and (3) the contemnor has not diligently attempted to comply in a reasonable manner.” *Next Invs.*,

¹ Citations to “ECF” refer to the pagination generated by the Court’s CM/ECF docketing system and not the document’s internal pagination.

LLC v. Bank of China, 12 F.4th 119, 128 (2d Cir. 2021) (internal quotation marks and brackets omitted). All of those criteria are satisfied here.

Plaintiff argues that an appropriate penalty would be \$100 per day—to be paid to Plaintiff—until the architectural and construction plans are submitted. (Dkt. 32 at ECF 11.) The Court agrees. Accordingly, on or before October 19, 2022, Liberty shall show cause by written submission why it should not be sanctioned \$100 per day for violating this Court’s May 18, 2022 Order.

Plaintiff shall personally serve this Order to Show Cause, Plaintiff’s motion papers requesting this Order to Show Cause, and a copy of Local Rule 83.6(a) upon Liberty in the manner provided for by Rule 4 of the Federal Rules of Civil Procedure and post proof of service on the docket on or before September 19, 2022. If Liberty fails to comply with this Court’s Order or adequately respond to this Order to Show Cause, Plaintiff may request that sanctions begin to be assessed. At that time, Plaintiff may submit a motion for attorneys’ fees accompanied by appropriate affidavits and time records.

SO ORDERED.

/s/ Pamela K. Chen

Pamela K. Chen

United States District Judge

Dated: August 19, 2022
Brooklyn, New York